

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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DAWN MARIE LEDERER,

Plaintiff,

Case No. 20-cv-158-pp

v.

ANDREW M. SAUL,

Defendant.

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**ORDER GRANTING PLAINTIFF'S AMENDED MOTION FOR LEAVE TO  
PROCEED WITHOUT PREPAYING THE FILING FEE (DKT. NO. 6)**

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The plaintiff has filed a complaint seeking judicial review of a final administrative decision denying her claim for disability insurance benefits under the Social Security Act. Dkt. No. 1. She also filed a motion for leave to proceed without prepaying the filing fee. Dkt. No. 3. The court entered an order on February 4, 2020 requiring the plaintiff to file an amended request for leave to proceed without prepaying the filing fee, dkt. no. 5, the plaintiff has filed that amended request, dkt. no. 6.

To allow the plaintiff to proceed without paying the filing fee, the court first must decide whether the plaintiff can pay the fee; if not, it must determine whether the lawsuit is frivolous. 28 U.S.C. §§1915(a) and 1915(e)(2)(B)(i).

Based on the facts in the plaintiff's affidavit, the court concludes that she does not have the ability to pay the filing fee. The plaintiff's complaint indicates that she is not employed, she is not married, and she has no dependents she is

responsible for supporting. Dkt. No. 6 at 1. The plaintiff's spouse has monthly income ranging from \$2,800 to \$8,000 per month, id. at 2, and the plaintiff explains that this is because his work is seasonal, Id. at 6. The plaintiff's monthly expenses range from \$5,846 to \$7,439, id. at 2-3, and the plaintiff has provided an itemization of her household expenses, id. at 5 (although she has not explained the fact that her mortgage payment ranges from \$1,082 to \$1,805 per month). The plaintiff owns a 2013 Ford Escape valued at approximately \$7,500. Id. at 3. She owns her home, valued at approximately \$143,000 with equity of \$4,000. Id. She does not own any other property of value, id. at 4, and she has \$100 in cash on hand or in a checking or savings account, id. at 3. The plaintiff states, "[it]t would be very difficult to try and come up with the \$400 filing fee at this time. We do not have any assets that we can sell to help us pay the filing fee and we do not have any money set aside in any accounts to help pay for the filing fee." Id. at 6. While the court considers this a close call—the plaintiff and her spouse seem to live an \$8,000 a month lifestyle even though their monthly income is much less than that for a significant portion of the year—the court will accept her statement that she does not have the funds available to pay the \$350 filing fee and \$50 administrative fee.

The next step is to determine whether the case is frivolous. A case is frivolous if there is no arguable basis for relief either in law or in fact. Denton v. Hernandez, 504 U.S. 25, 31 (1992) (quoting Nietzke v. Williams, 490 U.S. 319, 325 (1989); Casteel v. Pieschek, 3 F.3d 1050, 1056 (7th Cir. 1993)). A person

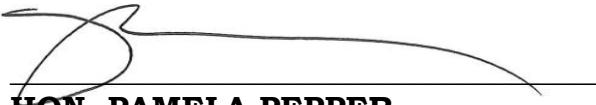
may obtain district court review of a final decision of the Commissioner of Social Security. 42 U.S.C. §405(g). The district court must uphold the Commissioner's final decision as long as the Commissioner used the correct legal standards and the decision is supported by substantial evidence. See Roddy v. Astrue, 705 F.3d 631, 636 (7th Cir. 2013).

The plaintiff's complaint indicates that she is seeking SSDI benefits; that she was denied those benefits; that she is, in fact, disabled; and that she believes the Commissioner's unfavorable conclusions and findings of fact when denying her benefits are not supported by substantial evidence and/or are contrary to law and regulation. Dkt. No. 1 at 2. At this early stage in the case, and based on the information in the plaintiff's complaint, the court concludes that there may be a basis in law or in fact for the plaintiff's appeal of the Commissioner's decision, and that the appeal may have merit, as defined by 28 U.S.C. §1915(e)(2)(B)(i).

The court **GRANTS** the plaintiff's amended motion for leave to proceed without prepaying the filing fee. Dkt. No. 6.

Dated in Milwaukee, Wisconsin this 25th day of February, 2020.

**BY THE COURT:**



**HON. PAMELA PEPPER**  
Chief United States District Judge